

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

October 8, 2003

**I.
PLEDGE OF
ALLEGIANCE**

Chair Nitafan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Nitafan, Williams, Galang, Giordano, Hay, Lalwani and Sandhu
Absent: None
Staff: Heyden, Lindsay and Rodriguez

**III.
PUBLIC FORUM**

Chair Nitafan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
September 24, 2003**

Chair Nitafan called for approval of the minutes of the Planning Commission meeting of September 24, 2003.

There were no changes from staff.

Motion to approve the minutes as submitted.

M/S: Giordano/Williams

AYES: 7

NOES: 0

**V.
ANNOUNCEMENTS**

Commissioner Hay announced his resignation from the Planning Commission effective November 1st. He is making an employment change that will require a substantial commitment of his time. His resignation also includes the City Council Transportation Subcommittee and the Santa Clara County Housing Community Development Citizen Advisory Committee.

Chair Nitafan noted that Commissioner Hay will be very missed and that he has been a very dedicated member of the community and very giving in regards to public service. He also thanked Commissioner Hay for his service to the Planning Commission, City Council, City staff and to all of the citizens of Milpitas and for being instrumental in the various projects that have come to the City within the last ten years and that he is very much appreciated.

Commissioner Lalwani echoed the words of Chair Nitafan and added that Commissioner Hay will be missed as a mentor and noted the many times he had helped her and wished him the best. Commissioner Lalwani also noted that she attended the California Chapter of the American Planning Association (APA) conference in Santa Barbara last week and that it was exciting. She brought back literature for fellow Commissioners and commented that the next APA national conference will be held in San Francisco in March 2005. She also thanked the City for letting her attend the conference.

Chair Nitafan added that he attended the conference and was very proud to represent the City of Milpitas. He noted that the City received the 2003 Comprehensive Planning award for a small jurisdiction for the Midtown Specific Plan and thanked the Planning Commission, City Council, staff and citizens for their involvement.

Vice Chair Williams noted that it has been fun and a pleasure serving with Commissioner Hay on the Commission and noted that they have worked on many exciting projects. He mentioned his gratitude and appreciation to Commissioner Hay in trying to do the best for the community.

VI. APPROVAL OF AGENDA

Chair Nitafan called for approval of the agenda.

There were no changes from staff.

Motion to approve the agenda as submitted.

M/S: Hay/Giordano

AYES: 7

NOES: 0

VII. CONSENT CALENDAR Item Nos. 3 and 4

Chair Nitafan asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

James Lindsay, Acting Planning Manager, requested that Agenda Item No. 1 (Six Month Review Of Use Permit No. 1532 (P-UA2003-17) be added to the consent calendar since the applicant is requesting continuance to the October 22nd meeting to work out some issues.

The Commission agreed to put Agenda Item No. 1 on the consent calendar.

Chair Nitafan opened the public hearing on Consent Item Nos. 1, 3 and 4.

There were no speakers from the audience.

Keep Public Hearing open Item Nos. 1, 3 and 4

Motion to keep the public hearing open and continue consent Item Nos. 1, 3 and 4 to the October 22, 2003 meeting.

M/S: Giordano/Williams

AYES: 7

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 1, 3 and 4.

***1 SIX MONTH REVIEW OF USE PERMIT NO. 1532 (P-UA2003-17):**
Verification of compliance with all conditions of approval for Use Permit No. 1532 for a cafe (Q-Cup) at 1679 N. Milpitas. Blvd. (APN 22-02-049). Applicant: Ted Chen, Q-Cup. Project Planner: Staci Pereira, (408) 586-3278. (PJ #2191)
(*Recommendation: Continue to October 22, 2003*)

***3 USE PERMIT NO. P-UP2003-33:** A request to operate a computer learning center/arcade at 1319 Jacklin Road, zoned C1-Neighborhood Commercial district (APN: 029-05-040). Applicant: Hermilo Isla & Edgar Rondez. Project Planner: Kim Duncan, (408) 586-3283. (PJ# 2346) (*Recommendation: Continue to October 22, 2003*)

***4 SIX-MONTH REVIEW OF USE PERMIT AMENDMENT NO. P-UA2002-21:** (*Continued from September 24, 2003*) Verification of compliance with all conditions of approval including maximum number of seats and ensuring trash bins are kept within the existing enclosures at 89 S. Park Victoria Drive (APN: 088-04-048). Applicant: Manuel Montono. Project Planner: Staci Pereira, (408) 586-3278. (PJ #2334) (*Recommendation: Continue to October 22, 2003*)

M/S: Hay/Lalwani

AYES: 7

NOES: 0

VIII. PUBLIC HEARINGS

Chair Nitafan opened the public hearing on Agenda Item No. 2.

1. USE PERMIT NO. P-UA2002-28 (P-AD2003-11) AND USE PERMIT AMENDMENT NO. P-UA2003-15 AND S-ZONE AMENDMENT (P-SA2003-118): *Expiration of a temporary use permit and a new request for live entertainment at Manila – Natori Restaurant at 579 South Main Street.*

Mr. Lindsay presented an expiration of a temporary use permit for karaoke and dancing (live entertainment) in a nightclub/ballroom setting at the Manila-Natori Restaurant and a new request to add live entertainment (karaoke and dancing), add 34 seats for special events, construct a new garbage enclosure, and a request for the joint use of 20 parking spaces at an existing restaurant (Manila-Natori Restaurant) at 579 South Main Street. Staff recommends approval with conditions and note receipt and file for expiration of temporary use permit no. P-UA2002-28.

Chair Nitafan opened the public hearing on Agenda Item No. 2.

Don Peoples, President of Downtown Association and business owner, is concerned that businesses in downtown are not doing well because of the economy. He stated the applicant's concerns about staff's recommended conditions to improve the existing landscaping and noted that the applicant is not getting cooperation from the landlord. The applicant would just like to complete the trash enclosure. He noted that the applicant has improved the site, and if the Commission holds off on the landscaping condition, it would improve the applicant's financial situation.

Close Public Hearing

Motion to close the public hearing.

M/S: Hay/Lalwani

AYES: 7

NOES: 0

Commissioner Giordano asked if the landscaping process could be looked at as long term process and if staff could come to some agreement with the applicant. Mr. Lindsay stated that in Condition No. 4, staff is not asking that additional landscaping be installed beyond what was previously approved. The request is to bring the landscaping back to the state that it was originally approved at. It has deteriorated, and staff felt it important to maintain that integrity. He also explained that a similar request was given regarding the garbage enclosure, within Condition No. 7, where staff is recommending a six-month time period for which to construct the garbage enclosure. Staff felt that the landscaping wasn't that expensive and did not require substantial improvements. The Commission could clearly follow the example of Condition No. 7 but it is not staff's recommendation.

Commissioner Giordano asked if staff could give the applicant six months to complete the landscaping and Mr. Lindsay replied that staff is recommending immediate action, but if a longer time frame is desired by the Commission, then it is up to the Commission to decide.

Besides Condition No. 7, Commissioner Lalwani asked if the applicant is in agreement with the other conditions. Mr. Lindsay replied that the previous use permit triggered the midtown upgrades, and that this request does not trigger the same requirements. The two site enhancements were bringing the landscaping back up to the approved drawings and the garbage enclosure. Once the applicant has installed those, then everything would be fine.

Marie Asistin, owner of Manila Natori, explained that she did apply as a new applicant, and as far as the landscaping that was approved, she felt that staff has required too many trees to plant. She doesn't agree with staff's recommendation to place a weeping willow tree in the front and the back of the property and asked if a different type of tree could be planted. Mr. Lindsay replied that staff could work with the applicant on the species type and staff was more concerned with the quantity of landscaping that the site does not meet. If there are concerns with the species type, staff will work directly with the applicant and if there are other suggestions, staff will consider a species type.

Chair Nitafan commented that staff could work with the applicant and bring back a revised landscaping plan to the Planning Commission Subcommittee.

Mr. Lindsay commented that if it is the Commissions desire to bring the revisions to the landscaping plan back to the subcommittee, than it has to be added to condition no. 4, however, in working out details with species types, staff is comfortable in handling that with the applicant directly.

Commission Hay supported Mr. Lindsay's comments and doesn't see a need to have the landscaping plan come back to the subcommittee. The species type is a level that staff can handle and has handled in the past.

Commissioner Giordano asked if the landscaping plan was driven by the Midtown plan. Mr. Lindsay replied, "No", and explained that this condition would have been placed on the project if it had been outside of the Midtown area. Staff looked at the file and did a site visit and found that the landscaping that was previously approved was not what it was to be appearing now. The landscaping had been dilapidated and was removed and would not be considered a Midtown requirement.

In response to Commissioner Giordano's question, Mr. Lindsay replied that staff can work with the species type, and if the applicant is requesting a reduction in landscaping, then the project will have to come forward again.

Commissioner Lalwani made a **motion** to approve Use Permit No. P-UA2002-28 (P-AD2003-11) AND USE PERMIT AMENDMENT NO. P-UA2003-15 AND S-ZONE AMENDMENT (P-SA2003-118) and with amended special condition No. 4 to bring back the landscaping plan to the subcommittee for review.

Mr. Lindsay requested to modify the motion to remove Use Permit No. P-UA2002-28 (P-AD2003-11) and stated that it was provided for informational purposes only.

Commissioner Galang asked if there is a deadline for condition no. 4 and Mr. Lindsay replied that staff is requesting that the landscaping be completed prior to certificate of occupancy.

Vice Chair Williams asked if the intent was to have a six-month review for landscaping, therefore giving the applicant enough time.

After further discussion, the Commission agreed to revise condition No. 4 to read the following:

4. *Within six (6) months of October 8, 2003, the applicant shall restore the landscaping to the previously approved landscaping plan, ensuring that all of the required trees are on the site and dead landscaping is replaced. All required landscaping shall be continuously maintained as necessary to provide a permanent, attractive and effective appearance.*

The maker of the motion (Commissioner Lalwani), and the second (Commissioner Sandhu) agreed.

Chair Nitafan asked if there are going to be any future problems with joint parking and Mr. Lindsay replied "No".

Motion to approve Use Permit Amendment No. P-UA2003-15 and S-Zone Amendment (P-SA2003-118) and with amended special condition No. 4 as noted above.

M/S: Lalwani/Sandhu

AYES: 7

NOES: 0

IX. NEW BUSINESS

Chair Nitafan opened the public hearing on Agenda Item No. 5. under new business.

**2. DISCUSSION OF THE
FISCAL YEAR 2003-2004
CAPITAL
IMPROVEMENT**

PROGRAM: *Staff Contact:
Acting Planning Manager,
James Lindsay (408) 586-
3274 and City Engineer Mike
McNeely, (408) 586-3301*

Mr. Lindsay explained that at the September 24th 2003 meeting, the Commission requested that the Fiscal Year 2003-2004 Capitol Improvement Program August monthly report be agendized. Staff invited **Mike McNeely, City Engineer**, to update the Commission on capital projects.

Mr. McNeely presented a discussion of the Fiscal Year 2003-2004 Capital Improvement Program. Regarding the Montague Expressway widening project, he explained that it is in Phase 3, the final phase of a series of projects. There was a cost sharing agreement with VTA and the City to widen the railroads at the east of Great Mall Parkway, which are the UPRR tracks. He explained that this project would complete the gaps between the railroad and I-680, primarily on the north side and that some areas on the south side still need to be completed. He recalled that Phase 1 was completed at Great Mall Parkways and Phase 2 was just completed on the south side to widen an additional lane.

Regarding the status of right of way affecting the Jones Chemical Property, Mr. McNeely explained that in the original concept, it was assumed that the Jones Chemicals property would be demolished, but so far, Warehouse Properties has no plans to do so. Staff is looking into widening the right of way by providing an additional lane, but cannot extend the right turn lane from Montague to Milpitas Blvd.

Commissioner Hay thought that the cost sharing was between the City and VTA and Mr. McNeely replied that the City paid for the widening on Montague and VTA paid for the widening for light rail near the Great Mall Parkway and Capital Avenue.

Commissioner Lalwani asked what would happen with the vacant buildings at Montague Court at the intersection of 680 and Montague Expressway. Mr. McNeely replied that he does not know.

Commissioner Giordano asked what is the projected timeline and Mr. McNeely replied that construction is expected to be complete between January and December of 2005 because it will take long to get the utilities under grounded and get the railroad going.

Regarding the Alviso Adobe renovation project, Mr. McNeely brought attention that there is a printing error, which mistakenly did not include the budget of \$1.6 million dollars that is available. Mr. McNeely noted that staff has not been successful in developing an access way and additional parking needed for the project. Staff is still talking to the owner of Calvary church and the owner on the north side of Calaveras and the church has not been amendable to that suggestion. Staff has talked about a parking lot behind their parking lot, and access through the church property. Staff met with the owners last week and unfortunately, the access is key to the adobe. For these reasons, there is no anticipated schedule, but are trying to come up with a solution this year.

Commissioner Lalwani informed that there is a house on Calaveras Road near Evans for sale, which might be available for parking access. Mr. McNeely replied that staff would look into it.

Commissioner Hay mentioned his confusion with the whole negotiation process with the church. He recalled the difficult time the Commission had approving the church and that the City bent over backwards to help them do the things they wanted to do. The church made commitments to provide the City access to the Adobe and it's unfortunate that the Adobe is landlocked because of their housing development.

Mr. McNeely replied that there are a few parking spaces available but not nearly enough.

Commissioner Hay is concerned with the church's change in attitude. He recalled that the church was asking for a lot of flexibility and is disappointed that they are not interested in cooperating.

Commissioner Giordano is concerned about the budget for the Adobe project and asked how long the project has been on hold. Mr. McNeely responded that he wasn't sure, but that he has been involved with the project for a year.

Commissioner Giordano asked why is there no money being allocated for this project and Mr. McNeely responded that the project has been put on hold but that there is \$1.6 million available for the project, there was a typo in the report.

Commissioner Giordano asked if the Commission would like to address this issue further. Mr. McNeely replied that the Parks Recreation and Cultural Resources Commission (PRCRC) is interested in looking at it and their recommendation is to form a study group to approach the church.

Commissioner Sandhu asked if the dispute with the historical society and the city regarding money with the project has been resolved. Mr. McNeely said that it has not been resolved, but the discussions have been on hold pending the resolution for the Adobe. He also mentioned that the Council would be reviewing the Capital Improvement Project (CIP) reports in their entirety at the next meeting.

Going back to the issue of the church and what occurred in the past, Commissioner Hay suggested that staff schedule a review at the Planning Commission level to look at the history of when the City came into possession of the Alviso Adobe, and to look at previous minutes and videotapes. He recalled how the church was looking for flexibility and how they played a heavy political game and were successful.

Commissioner Lalwani pointed out to Mr. McNeely that she found the address of the Montague Court buildings rented by South Bay Development Company and showed the pictures to Mr. McNeely.

Vice Chair Williams commented on the Geographic Information System (GIS) project and was hoping that he would see the project completed. Mr. McNeely was happy to report that staff is nearing the end of the tunnel and hoping to have it completed by January 2004. The next phase of the project includes utilities such as water, sewer, storm drain and streetlights.

Commissioner Hay commented that the monthly CIP reports are a valuable tool.

Regarding the uncommitted balance of \$36,000 dollars for the dog park project Commissioner Hay asked if the money could be used to purchase benches. Mr. McNeely said that staff would consider it.

Regarding the hillside water system improvements, Commissioner Hay asked if the hillside owners will share the \$2.2 million dollars of the total project budget cost. Mr. McNeely replied that it has been a long city policy that the costs will be spread over by the entire city.

Regarding the manor storm pump station backup generator negative uncommitted balance of \$31,750 dollars, Commissioner Hay asked if the City has overspent the budget. Mr. McNeely replied that there is plenty of money for the project and staff will correct the error in the report.

Regarding the Milpitas Sports Center negative uncommitted balance of \$260,844 dollars, Commissioner Hay asked if the City has overspent the budget. Mr. McNeely replied that there is plenty of money for the project and staff will correct the error in the report.

Regarding the Calaveras road slope protection project, Commissioner Hay asked what does staff plan on doing to mitigate problems in case there is a landslide in the future. Mr. McNeely replied that staff is attempting to sell the material through various vendors and has not been successful. As far as movement goes, the materials have been removed due to safety factors and the probability of the road sliding is very small, but there are no guarantees.

Commissioner Hay commented that he is very excited and proud of the City to see that the utility under grounding project has stepped forward quickly. It is a big part of the investment and infrastructure of the Midtown area near Main and Weller.

Chair Nitafan commented that the Montague widening project at Milpitas Blvd. shows 100 percent complete, but there is money left over. He asked if that money would be used for landscaping. Mr. McNeely replied, "Yes", and that the City is looking at agreements with San Jose.

In regards to Chair Nitafan's question regarding the Milpitas library, Mr. McNeely responded that staff is still in the pre-design phase and the developer is working on a work plan. He explained that there are several hundred thousand dollars for the mapping project and the under grounding the utilities.

In regards to the Community Center renovation project, Chair Nitafan commented that when looking at the roof of the Community Center from City Hall's second floor, you could see mechanical equipment on the roof, which makes it look awful. He asked if staff could clean up the mess. Mr. McNeely replied that staff will look into it, but they are working on the HVAC system, which has been long needed.

X. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:07 p.m. to the next regular meeting of October 22, 2003.

Respectfully Submitted,

James Lindsay
Planning Commission
Secretary

Veronica Rodriguez
Recording Secretary